

REMARKS

Amendments to claim 52 is for the purpose of clarifying what Applicant regards as the invention. No new matter has been added.

I. CLAIM REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 3-7, 15-17, 19, 20, 25-29, 32, 34, 36-40, and 42-53 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,077,769 (Franciose). Claims 1, 2, 4-7, 15-17, 19-21, 23, 25-29, 31-34, 36-40, and 42-53 stand rejected under 35 U.S. C. 102(e) as being anticipated by U.S. Patent No. 6,490,335 (Wang). Applicant respectfully notes that in order to sustain a rejection under §102, each element in the rejected claim must be found, either expressly or inherently, in the cited reference.

Claims 1, 20, 28, and 37

Claim 1 recites putting operation data into a format that is the same as a format of a first set of image data, and adding the operation data to the first set of image data. Claims 20, 28, and 37 each recites similar limitations. Franciose does not disclose or suggest these limitations. Rather, Franciose discloses an electronic system 32 that allows image information “*to be associated with*” a gantry configuration (Emphasis added) (See figure 6, column 4, lines 17-33, and column 5, lines 6-9 and 18-42). As such, Franciose discloses “associating” image information with a gantry configuration. As discussed in paragraph 6 of the subject application, Applicant recognizes the fact that “associating” image information with operation data is known in the art, and claim 1 is not broadly drafted so as to cover all methods of “associating” image information with operation data. Instead, claims 1, 20, 28, 37 each recites putting operation data into a format that is the same as a format of a first set of image data, and adding the operation data to the first set of image data - which is a specific, novel, and inventive way of associating image data with operation data, and is neither disclosed or suggested by Franciose.

Wang also does not disclose or suggest the above limitations. According to the office action, the abstract, figure 7, column 5, lines 55-67, and column 7, line 64 to column 9, line 67 of Wang

disclose the above limitations. However, Applicant respectfully note that the abstract, figure 7, and column 5, lines 55-67 do not at all mention anything regarding putting operation data *into a format that is the same as a format of an image data*, and do not shown adding the operation data to the image data. Column 7, line 64 to column 9, line 67 discloses an image reconstruction algorithm that uses gantry information, and does not disclose or suggest the above limitations either.

For at least the foregoing reasons, claims 1, 20, 28, and 37, and their respective dependent claims, are believed allowable over Franciose and Wang.

Claims 39, 48, and 50

Claim 39 recites obtaining operation data that comprises one or a combination of a gantry angle, a patient position, a patient orientation, radiation dose rate, radiation dose fraction, beam pulse rate, beam energy, time when beam was activated, time when beam was deactivated, beam variation during an image readout, machine axis information, and machine status information, and *formatting the operation data into a set of image data* (Emphasis Added). Claims 48 and 50, and each recites similar limitations. Applicant respectfully note that neither Franciose nor Wang discloses or suggests formatting any of the operation data as claimed into image data. For at least the foregoing reasons, claims 39, 48, and 50, and their respective dependent claims, are believed allowable over Franciose and Wang.

Claim 52

Claim 52 has been amended to recite combining operation data and image data into a data file in substantially real time. Franciose and Wang do not disclose or suggest such limitation. Rather, as discussed, Franciose discloses “associating” image information with a gantry configuration, and does not disclose or suggest “combining” operation data and image data, and combining operation data and image data “into a data file” as recited in claim 52. Wand does not mention anything at all regarding combining operation data with image data. For at least the foregoing reasons, claim 52, and its dependent claim 53, are believed allowable over Franciose and Wang.


CONCLUSION

Based on the foregoing, all remaining claims are believed in condition for allowance. If the Examiner has any questions or comments regarding this amendment, please contact the undersigned at the number listed below.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. **50-2518**, referencing billing number **7035272001**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. **50-2518**, referencing billing number **7035272001**.

Respectfully submitted,
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